

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN GILBERT,)	CASE NO. 1:10CV2450
)	
PETITIONER,)	JUDGE SARA LIOI
)	
vs.)	MEMORANDUM OPINION
)	
TERRY TIBBALS, Warden,)	
)	
RESPONDENT.)	

Before the Court is the Report and Recommendation (“R&R”) of the Magistrate Judge in the above-entitled action. Under the relevant statute:

[...] Within fourteen days after being served with a copy, any party may serve and file written objections to such proposed findings and recommendations as provided by rules of court. A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.

28 U.S.C. § 636(b)(1)(C).

In this case, the R&R was filed on January 17, 2012. Under Fed. R. Civ. P. 6(d), an additional three days are added when computing service. Therefore, objections were due February 3, 2012. No objections were filed on or before that deadline. The failure to file written objections to a Magistrate Judge’s report and recommendation constitutes a waiver of a de novo determination by the district court of an issue covered in the report. *Thomas v. Arn*, 728 F.2d 813 (6th Cir. 1984), *aff’d*, 474 U.S. 140 (1985), *reh’g denied*, 474 U.S. 1111 (1986); *see United States v. Walters*, 638 F.2d 947 (6th Cir. 1981).

The Court has reviewed the R&R and accepts the same. Accordingly, the above captioned petition for writ of habeas corpus is **DISMISSED**. Further, the Court **CERTIFIES** that

an appeal from this decision could not be taken in good faith and that there is no basis upon which to issue a certificate of appealability. 28 U.S.C. §§ 1915(a) (3), 2253(c); Fed. R. App. P. 22(b).

IT IS SO ORDERED.

Dated: February 7, 2012



HONORABLE SARA LIOI
UNITED STATES DISTRICT JUDGE